

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX
Petitioner
v

File No. 90584-001

Priority Health
Respondent

Issued and entered
this 18th day of August 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On June 24, 2008, XXXXX, on behalf of her minor son XXXXX ("Petitioner"), filed a request for external review with the Commissioner of the Office of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On July 1, 2008, after a preliminary review of the material submitted, the Commissioner accepted the request.

The issue in this matter can be resolved by analyzing the Priority Health certificate of coverage. It is not necessary to obtain a medical opinion from an independent review organization. The Commissioner reviews contractual issues under MCL 500.1911(7).

II
FACTUAL BACKGROUND

The Petitioner is a member of Priority Health and his health benefits are defined in Priority Health's certificate of coverage (the certificate).

The Petitioner, who was born in XXXXX, has a history of ectodermal dysplasia. Ectodermal dysplasia syndromes are a group of about 150 inheritable disorders that affect the ectoderm, the outer layer of tissue in a developing baby. The ectoderm contributes to the formation of many parts of the body including the skin, sweat glands, hair, teeth, and nails. During embryonic development, these and/or other parts of the baby's body, including the lens of the eye, parts of the inner ear, the fingers and toes, or nerves, may fail to develop normally. In the Petitioner's case, his teeth were affected. His parents requested coverage for crowns to restore the Petitioner's teeth. Priority Health denied the request. The Petitioner appealed and exhausted Priority Health's internal grievance process. Priority Health issued its final adverse determination letter June 11, 2008.

III ISSUE

Did Priority Health properly deny the Petitioner coverage for restorative crowns?

IV ANALYSIS

The Petitioner's parents argue that crowns were medically necessary because of his medical condition. XXXXX, a dentist at the XXXXX Center, examined the Petitioner and described the services needed to correct the Petitioner's anomaly:

[Petitioner] presents with a developmental condition called diffuse microdontia and oligodontia. Along with the size and number discrepancy there is lack of vertical height of both the maxilla and mandible.

Prior to presenting to me for treatment [Petitioner] had several years of orthodontic treatment to properly space his teeth and stimulate vertical growth of his facial structures. That treatment accomplished needed spacing; however, vertical height remained deficient.

Treatment to provide [Petitioner] with proper occlusion for mastication, phonetics, facial support and esthetics included crowns on all his remaining teeth. Because this is a developmental deformity it falls outside the normal dental insurance coverage and more into the medical model.

Respondent's Argument

In its final adverse determination letter to the Petitioner, Priority Health stated, "the requested coverage for multiple crown services have been determined to be dental." Priority Health cited exclusions in Section 7 of the certificate. Priority Health also argues that anesthesia is excluded from coverage unless it has been authorized in advance.

Priority Health believes it properly denied the Petitioner's request for coverage as treatment for congenital defects are excluded.

Commissioner's Review

Priority Health is a health maintenance organization (HMO). The Insurance Code of 1956, as amended, governs HMOs. Requirements specific to HMOs are found in chapter 35 of the Insurance Code, MCL 500.3501 *et seq.* That statute contains several provisions relevant to this review. There is no requirement that HMOs provide dental care as a basic health service. Priority Health's general exclusion of dental care (i.e., fillings, braces, crowns, bridges, dentures, etc.) is permissible. In the certificate, there is no coverage for crowns or implants even if they serve an important medical need.

The certificate provides some coverage of oral surgery and hospitalization services but also contains the following provisions:

Section 6. Schedule of Covered Services

* * *

- (4) Dental hospitalization. Hospital, ancillary and anesthesia services may be covered for pediatric Members under the age of 18 as follows:
 - (a) Multiple extractions or multiple restorations for children under the age of four;
 - (b) A total of six or more teeth are extracted in various quadrants;
 - (c) Dental treatment needs for which local anesthesia is ineffective because of acute infection, anatomic variation or allergy;
 - (d) Extensive oral-facial and/or dental trauma for which treatment under local anesthesia would be ineffective or compromised;
 - (e) Patients with a concurrent hazardous medical condition.

* * *

- (21) Oral Surgery. Coverage for oral surgery is limited to the following:

- (a) Reduction or manipulation of fractures of facial bones.
- (b) Removal of tumors or cysts of the jaw, other facial bones, soft tissues of the mouth, lip, tongue, accessory sinuses, salivary glands, or the ducts.
- (c) Rebuilding or repair of soft tissues of the mouth or lip needed to correct anatomical functional impairment caused by congenital birth defect or accidental injury. Rebuilding or repair for cosmetic purposes is not Covered.

* * *

Dental Surgery in preparation for implants or dentures, including preparation of the bone, or dental surgery done in connection with any of the Covered Services listed above is not Covered. Read Section 7(11) to learn more about coverage limitations and exclusions.

Section 7. Exclusions From Coverage

* * *

The following is a list of exclusions from your Coverage:

* * *

- (11) Dental Services and Dental Surgery. All dental services, including, among other things:

* * *

- i. Treatment of congenital dental defects, such as missing or abnormally developed teeth. . . .

According to the certificate and Priority Health's oral surgery medical policy, crowns and implants are not covered; anesthesia is covered only when specific criteria are met. There is no indication in the record that the crowns were required to treat any cysts, tumors, or fractures of the facial bones as required by the language of Priority Health's certificate.

Also, there is no coverage for hospitalization or anesthesia unless certain criteria are met and the services have been approved in advance. The Commissioner finds that the requested services in this case falls within the exclusions stated in the certificate.

The Commissioner finds that Priority Health's denial of coverage was consistent with the terms and conditions of the certificate – the services the Petitioner received are not covered benefits.

V ORDER

The Commissioner upholds Priority Health's June 11, 2008 final adverse determination.

Priority Health is not responsible for covering the Petitioner's crowns under the terms of its certificate and related medical policy.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.